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 Before the  
 Federal Communications Commission  
 Washington, D.C. 20554  
 DISPATCHED BY

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 96-250
Table of Allotments,	)	RM-8952
FM Broadcast Stations.	)	
(Parris Island and Hampton, South Carolina)	)	

**REPORT AND ORDER**  
 (Proceeding Terminated)

Adopted: October 15, 1997;

Released: October 24, 1997

By the Chief, Allocations Branch:

1. At the request of Simmons Broadcasting Company ("petitioner"), licensee of Station WGZO(FM) (formerly WLWS(FM)), Channel 221A, Parris Island, South Carolina, the Commission has before it the Notice of Proposed Rule Making and Order to Show Cause, 11 FCC Rcd 17273 (1996), proposing the substitution of Channel 276C3 for Channel 221A at Parris Island, and the modification of Station WGZO(FM)'s license accordingly. To accommodate the upgrade, petitioner also proposes the substitution of Channel 221A for Channel 276A at Hampton, South Carolina, and the modification of Station WBHC-FM's license accordingly. Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if allotted. Comments were also filed by Hampton County Broadcasters, Inc. ("HCB"), licensee of Station WBHC-FM.

2. As indicated in the Notice, petitioner asserts that the proposed upgrade would serve the public interest by allowing Station WGZO(FM) to increase its area coverage by 52% and its population coverage by 43%. Likewise, the substitution of Channel 221A at Hampton would allow Station WBHC-FM to increase its effective radiated power to six kilowatts and thereby increase its area coverage by 67% and its population coverage by 73%. Under the proposal, petitioner asserts that both stations would be able to offer more range and quality of service to more people. Petitioner further asserts that the proposed channel swap with Station WBHC-FM is necessary to effectuate the channel upgrade at Parris Island. Therefore, petitioner contends that the proposed channel substitutions constitute an "incompatible channel swap" and should be protected from competing expressions of interest consistent with the adjacent channel upgrade provisions of Section 1.420(g)(3) of the Commission's Rules. Section 1.420(g)(3) allows the modification of a station's license to a higher class channel if the channel is a co-channel or

adjacent channel mutually exclusive with the existing license. However, the Commission has acknowledged that it will consider analogous proposals involving channel substitutions at other communities which would be necessary to create a mutually exclusive relationship required under Section 1.420(g)(3), and has determined to consider these "incompatible channel swaps" on a case-by-case basis. See Modification of FM Broadcast Licenses to Higher Class Co-Channel or Adjacent Channels, 60 RR 2d 114 (1986).

3. In response to the Order to Show Cause, HCB states that it did not seek an upgrade in this proceeding, because of petitioner's commitment to provide a used transmitter and an antenna, as well as other associated equipment to Station WBHC-FM in order to facilitate its operation as a six kilowatt facility. Additionally, HCB expects full reimbursement of all costs associated with its change to Channel 221A, and will present petitioner with an itemized list of those expenses for full payment prior to relocating to the new channel. In view of these commitments, HCB states it will interpose no objection to the upgrade of Station WGZO(FM) to Channel 276C3 at Parris Island and the relocation of Station WBHC-FM to Channel 221A at Hampton.

4. Whenever an existing station is ordered to switch frequency in order to accommodate a new allotment, we require that the proponent of the new allotment make a commitment that it would reimburse the affected station for the costs incurred in changing frequency. Accordingly, Hampton County Broadcasters, Inc., licensee of Station WBHC-FM, is entitled to reimbursement for the reasonable cost involved in changing its frequency. See Circleville, Ohio, 8 FCC 2d 159 (1967). Petitioner has stated its willingness to reimburse Station WBHC-FM for the reasonable expenses incurred in changing to Channel 221A.

5. We believe the public interest would be served by substituting Channel 276C3 for Channel 221A at Parris Island, South Carolina, since it will enable Station WGZO(FM) to expand its coverage area and improve its service.<sup>1</sup> To accommodate the upgrade, we also substitute Channel 221A for Channel 276A at Hampton, South Carolina. An engineering analysis as determined that Channel 276C3 can be allotted to Parris Island in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's requested site.<sup>2</sup> Additionally, Channel 221A can be allotted to Hampton in compliance with the Commission's minimum distance separation requirements at Station

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<sup>1</sup>The upgrade is being treated under the provisions of Section 1.420(g)(3) of the Commission's Rules because the proposal fulfills the requirements for an "incompatible channel swap." Specifically, the channel substitution for the upgrade and the accommodating substitution are each mutually exclusive and are uniquely available, i.e., there is no alternate channel of its class that is fully-spaced from the station's site. See Modification of FM Broadcast License to Higher Class Co-Channel or Adjacent Channels, *supra*.

<sup>2</sup>The coordinates for Channel 276C3 at Parris Island are North Latitude 32-27-00 and West Longitude 80-47-30.

WBHC-FM's presently licensed site.<sup>3</sup> As requested, in accordance with Section 1.420(g)(3) of the Commission's Rules, we modify the licenses of Stations WGZO(FM) and WBHC-FM to specify operation on Channels 276C3 and 221A, respectively.

6. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective December 8, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Parris Island, South Carolina	276C3
Hampton, South Carolina	221A

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Simmons Broadcasting Company for Station WGZO(FM) at Parris Island, South Carolina, IS MODIFIED to specify operation on Channel 276C3 in lieu of Channel 221A, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, **if the request is granted**, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Simmons Broadcasting Company, licensee of Station WGZO(FM), is required to submit a rule making fee in addition to the fee required for the application to effect the upgrade.

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<sup>3</sup>The coordinates for Channel 221A at Hampton are North Latitude 32-50-39 and West Longitude 81-07-28.

9. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Hampton County Broadcasters, Inc., for Station WBHC-FM at Hampton, South Carolina, IS MODIFIED to specify operation on Channel 221A in lieu of Channel 276A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station WBHC-FM's license, BLH-8703231A, except the channel as specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH-8703231A, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

10. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the following:

Simmons Broadcasting Company	Hampton County Broadcasters, Inc.
44 Bow Circle, Suite B	P.O. Box 666
Hilton Head Island, South Carolina 29928	Hampton, South Carolina 29924
(Licensee of Station WGZO(FM))	(Licensee of Station WBHC-FM)

11. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

12. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau